EXAMINER'S AMENDMENT

1.   An examiner's amendment to the record appears below. Should the changes

and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be

submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a proposed

amendment with Mr. John Bacoch on 07/18/2008).

Please amend claims 10-11 and 18-19 and

Please cancel claim 13.

10.   (Currently Amended)   A computer-readable <u>storage</u> medium ~~having~~

<u>storing</u> computer-executable instructions, which when executed, perform the method of

claim 1.

11.   (Currently Amended)   In a computing environment, a method of

regulating access to content, comprising:

receiving a content-related request, and in response, providing download

regulation data comprising at least one probability value that directs which clients can

download the content, wherein access to the content is regulated by said clients

determining from the probability value whether to download the content or wait until later

to download the content, and a time-window set containing ~~at least one time~~ <u>a plurality</u>

of time values value, wherein including a time value contained within the time window set specifies specifying a maximum length of time a client may download content corresponding to the content-related request and a time value specifying a minimum length of time said clients that determine to wait are to delay; and

updating the down regulation data provided in response to subsequent content-related requests based on network load.

13. (Cancelled)

18.   (Currently Amended)   A computer-readable storage medium having storing computer-executable instructions, which, when executed, perform a method of regulating access to content, the method comprising:

receiving a content-related request, and in response, providing download regulation data comprising at least one probability value that directs which clients can download the content, wherein access to the content is regulated by said clients determining from the probability value whether to download the content or wait until later to download the content, and a time-window set containing a plurality of time values at least one time value, wherein including a time value contained within the time window set specifies specifying a maximum length of time a client may download content corresponding to the content-related request and a time value specifying a minimum length of time said clients that determine to wait are to delay, wherein the same download regulation data is provided to all client request; and

updating the down regulation data provided in response to subsequent content-related requests based on network load.

19. (Currently Amended)   A computer-readable storage medium having stored thereon a data structure for regulating the downloading of content to a plurality of clients, the method comprising:

a first set of data corresponding to an acceptance value, the acceptance value corresponding to a single probability value that regulates the percentage of the plurality of clients that will start a download immediately after evaluating the acceptance value;

a second set of data corresponding to at least one time value; and

wherein the data structure is configured to be returned to a client in response to a content-related request, and for the client to determine from the acceptance value in the first set of data whether to request the content immediately and proceed to download the content for a length of time not to exceed a download time or whether to back off for a wait time before performing an additional content-related request, the download time corresponding to a download time value in the second set of data and the wait time corresponding to a wait time value in the second set of data.

Allowable Subject Matter

2.   Claims 1-4, 7-11, 15-21 are allowed.

3.   The following is an examiner's statement of reasons for allowance: The prior art

references most closely resembling the applicants claimed invention are Sugiarto et al.,

(US Publication No. 2002/0143952) and Tarbotton et al., (US Patent No. 7,013,330).

Sugiarto discloses a multimedia download system allowing users to download

depending on time of day. However, Sugiarto fails to disclose the content server

sending a download time to complete within, and if failing that, a time delay to wait

before requesting a new download time and time to complete in.

Tarbotton discloses a download system using a range of times based on a

random value. However, Tarbotton fails to disclose the content server sending a delay

time if the download fails to complete in the specified allotted time for the client machine

to wait before requesting a new download time window.

In summary, the Examiner submits that neither Sugiarto nor Tarbotton teaches

all the limitations of independent claims in combination with other elements. Specifically

the prior does not teach a delay time to wait before submitting a new download request,

therefore, claims 1-4, 7-11 and 15-21 have been deemed allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later

than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on

Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM J. GOODCHILD whose telephone number is (571)270-1589. The examiner can normally be reached on Monday - Friday / 8:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WJG

/Jason D Cardone/
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